



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 15, 1992

Ms. Rosalinda Garcia
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR92-22

Dear Ms. Garcia:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14469.

You have received a request for information relating to criminal activity occurring in a certain area. Specifically, the requestor seeks a "print out of calls for service to the Sagewood shopping center in the 10900 block of Scarsdale Blvd. for the years 1989 and 1990." You have submitted to us for review representative samples of telephone complaint forms and offense reports. You assert that this information identifies juvenile and victims of sexual assault. You claim that information that identifies the address and phone number of *any* crime victim is excepted from required public disclosure by section 3(a)(1) of the Open Records Act, which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial review."

Article 56.09 of the Code of Criminal Procedure provides:

As far as reasonably practical, the address of the victim may not be a part of the court file except as necessary to identify the place of the crime. The phone number of the victim may not be a part of the court file.

Article 56.09 refers to the inclusion of certain information in a court file but does not address the availability of such information to the public. Open Records Decision No. 455 (1987) at 7, citing *Industrial Found. of the South v. Texas Indust. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), specifically held that there is no privacy interest in home addresses and phone numbers. Accordingly, the addresses and phone numbers may not be withheld from required public disclosure under article 56.09 of the Code of Criminal Procedure and must be released unless made confidential by law.

You do not expressly assert the common-law privacy aspect of section 3(a)(1); however, we note that some of the requested information is protected from required public disclosure by common-law privacy interests. See Open Records Decision No. 481 (1987) at 2 (the attorney general will raise section 3(a)(1) on behalf of a governmental body). Information may be withheld from required public disclosure under the common-law privacy aspect of section 3(a)(1) if it meets the criteria explained in *Industrial Foundation*. In *Industrial Foundation*, the Texas Supreme Court ruled that common-law privacy excepts only information containing highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person and it is not of legitimate concern to the public. Open Records Decision No. 393 (1983) held that information that identifies or would tend to identify a victim of a serious sexual offense may be withheld under common-law privacy. See also Open Records Decision No. 339 (1982). Accordingly, any information included in the requested materials that identifies or tends to identify the victims of any sexual offense is excepted from required public disclosure under section 3(a)(1).

We also note that some of the requested information may be made confidential by statute. Subsection (d) of Section 51.14 of the Family Code relates to the law enforcement files and records of juveniles. Subsection (d) states:

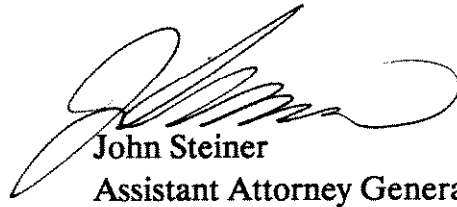
Except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

Open Records Decision No. 181 (1977) at 3 held that information contained in law enforcement records that would identify or tend to identify juveniles may be withheld from required public disclosure. Unless the requester falls within any of the three exceptions contained in subsection (d) of section 51.14, any information that identifies or would tend to identify juveniles is made confidential by law and may not be released. *See also* Open Records Decision No. 394 (1983). The remaining information must be disclosed.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-22.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/GK/lcd

Ref.: ID# 14469

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